

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14261, of the George Washington University, as amended, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations (11 DCMR 3108.1 and 3107.2, respectively), for the following relief to construct a nine story rear addition (the "Burns Building Addition" or the "Addition") to the subject structure, the H.R. Burns Memorial Building according to the plans marked as Scheme 2 (Exhibit No. 69 of the record):

- A. Special exception under 11 DCMR 210 for further processing under a campus plan and under 11 DCMR 210.3 for permission to exceed the normal 3.5 FAR on the residentially zoned portion of the subject property by aggregating the FAR from the residentially zoned portion of the campus;
- B. Special exception under 11 DCMR 411.11 to permit a separate roof structure not meeting the setback requirements of 11 DCMR 400.8 and 770.7 and which does not place all penthouses and mechanical equipment in one enclosure and which does not have all enclosing walls of equal height;
- C. Variance from the open court width requirements (11 DCMR 406.1);
- D. Variance from the prohibition against making an addition to an existing nonconforming structure that creates a new nonconformity (court width) (11 DCMR 2001.3(c)); and
- E. Variance from the prohibition against making an addition to an existing nonconforming structure that extends an existing nonconformity (FAR) in a Commercial District (11 DCMR 2001.3(c)),

to construct a nine-story addition to the subject structure, the H.B. Burns Memorial Building, in an R-5-C and C-3-C District at premises 2150 Pennsylvania Avenue, N.W., (Square 75, Lots 855, 857, 849, 819, 818, 856 and 814).

HEARING DATES: February 27, May 8, June 26, July 31 and
October 16, 1985; December 16, 1987;
February 3, 1988

DECISION DATES: September 4, September 18 and November 6, 1985; February 17, 1888.

FINDINGS OF FACT:

1. The George Washington University ("GWU") is the applicant. The parties currently in opposition are James T. Draude, an owner and resident in the President Condominium, and ANC 2A.

2. On December 14, 1984, GWU filed its application for special exceptions for the alternative now identified as Scheme 1. The application was advertised for hearing on February 27, 1985. On motion of the Intervenor, the Board of Zoning Adjustment ("Board") remanded the application to the Zoning Administrator to determine whether additional zoning relief was necessary. On March 21, 1985, the Zoning Administrator ruled that the application required an additional special exception for a roof structure which does not place all penthouses and mechanical equipment in one enclosure and which does not have all enclosing walls of equal height. A revised application was advertised for hearing on May 8, 1985. At the hearing on May 8, 1985, the Board granted GWU's motion for leave to amend its application to include an alternative design for the proposed Addition (identified as Scheme 2), and to postpone the hearing to allow Scheme 2 to be advertised. Applicants filed an amended application on May 9, 1985, and the application was advertised for hearing on June 26, 1985. The Board approved Application No. 14261 on December 20, 1985, and denied Appeal Numbers 14297 and 14344 on January 28, 1986. The Board approved Scheme 2. Intervenor Draude appealed the Board's decision to the District of Columbia Court of Appeals. On June 9, 1987, the District of Columbia Court of Appeals reversed the Board's decisions and remanded this action to the Board.

3. GWU was founded in 1821 by an Act of Congress. It has been located in the Foggy Bottom/West End area since 1912. It is fully accredited and authorized to confer degrees. It qualifies as a university under the Zoning Regulations, and the Campus Plan approved by the Board in 1970 in BZA Application No. 10403 governs its development.

4. Generally, the Campus Plan boundaries are Pennsylvania Avenue to the north, 19th Street to the east, F Street to the south, and 24th Street to the west. The boundaries include approximately 19 squares of approximately 45 acres. GWU is the predominant land owner within the designated boundaries.

5. The subject premises, known as 2150 Pennsylvania Avenue, N.W., are located on the southeast corner of the intersection of Pennsylvania Avenue and 22nd Street, N.W.

The site is split-zoned C-3-C and R-5-C, with the line of demarcation running immediately to the rear of the Burns Building structure which existed before GWU filed this application.

6. The site is long, narrow, and irregular, albeit generally rectangular, in shape; contains approximately 29,652 square feet; and fronts on Pennsylvania Avenue, 22nd Street, and I Street. The southern two-thirds of the lot begin 57 feet deep from 22nd Street, where the Burns Building ends. It then widens to 100 feet for a distance of 125 feet, and then narrows again to 82 feet for the remaining length. The northern portion of the site is presently improved with the H.B. Burns Memorial Building, while the southern portion has been used as a University parking lot for 53 automobiles.

7. GWU is located in a downtown urban neighborhood characterized primarily by highrise commercial, institutional, and residential buildings and uses. Buildings are permitted to be 90 to 130 feet in height. To the east, zoned C-3-C and C-4, are the White House, the General Services Administration, the World Bank, the International Monetary Fund, and various other institutional, public, and private offices. To the north, across Pennsylvania Avenue, the land is zoned C-3-C. This is the location of the city's West End Business section, which has undergone a variety of highrise developments in recent years, including International Square, the Esplanade, the Regent Hotel, and numerous other commercial and highrise residential buildings. To the immediate west, the zoning is R-5-D and is occupied by several highrise apartment buildings. Farther west the zoning is R-5-B, where several blocks of townhouses are located. To the southwest are the Kennedy Center and the Watergate Complex, in an area zoned SP-2. To the immediate south, the tier of blocks between E and F Streets is zoned R-5-D and is the location of highrise apartment and condominium buildings and institutional office buildings. Farther south, across the E Street Mall, are the State Department, Civil Service Commission, and other federal and institutional office buildings which, except for unzoned Federal land, are in an area zoned SP-2.

8. The site is bordered by Pennsylvania Avenue to the north, I Street to the south; a restaurant, a portion of a public alley system, and the President Condominium to the east; and 22nd Street to the west. GWU is the predominant landowner in the square. On I Street, the entire street except for the President Condominium is owned by GWU. University uses surrounded the President on three sides. The only other non-university uses in the square are five small commercial facilities which front on Pennsylvania Avenue.

9. The Application is consistent with the policies of the Campus Plan and the non-expansion of GWU's campus into low density residential areas.

10. The Applicant submits that the Addition is consistent with and implements the policies enunciated in the Human Services Element of the District of Columbia Comprehensive Plan (10 DCMR Chapter 10). These are:

1000.1 The availability of health and social services is critical to the District community. A wide range of services that are indispensable must be delivered not only to the most desperate and destitute, but to anyone in need of human services. These services include the following:

(a) Prevention and control of disease;

(b) Provision of medical and health care;

1000.2 Providing efficient and affordable human services require[s] intense, sustained, and sharply focused actions by the public and private sectors working together.

1000.3 The involvement of community leaders and agencies, providers, and consumers in such an active manner so as to ensure that high quality human services are provided, is central to efficient and affordable human services. It is essential that programs and actions respond to identified community needs.

1000.4 The District must pursue every available opportunity to improve efficiency and effectiveness and to target its resources most appropriately. Studies currently in progress must be carefully reviewed. Policies and implementation strategies designed to provide comparable services at lower costs must be devised.

1002 HEALTH CARE COST CONTAINMENT

1002.1 The health care cost containment objectives are to ensure high quality and thorough community-based health services that are available and accessible at reasonable cost and to provide quality public and private health services at reasonable cost.

1002.2 The policies established in support of the health care cost containment objectives are as follows:

- (a) Improve the efficiency of health service and initiate all appropriate actions to contain the costs of health care, thereby providing quality services at the lowest possible cost; [and]
- (b) Support the development of appropriate alternatives to inpatient hospital care; develop alternative uses for underutilized hospital beds, and avoid duplication of expensive services and equipment....

1003 HEALTH CARE DELIVERY SYSTEM

1003.1 The health care delivery system objective is to improve the efficiency and effectiveness of the health care delivery system.

1003.2 The policies established in support of the health care delivery system objective are as follows:

- (a) Refocus the health care system from one of crisis response to one that emphasizes preventing disease and promoting health and well-being by enhancing client capabilities to make informed choices about life styles and health practices, by avoiding disease, disability, and stress, and by establishing local health policies directed at increasing individual responsibility for health;
- (b) Promote the accessibility of quality primary care services in all areas of the District at reasonable cost, especially in medically-underserved and critical staff shortage areas;

- (e) Promote the efficient and effective delivery of acute care services by reducing inappropriate service

utilization and by exploring
alternative reimbursement mecha-
nisms;

- (g) Seek to ensure that sufficient rehabilitation services are readily accessible at costs that will not inhibit patient access to care and seek to ensure that appropriate referral patterns for rehabilitation services are maintained.

The Board concurs that the Addition is consistent with and contributes toward fulfilling these policies and goals of the Comprehensive Plan.

11. In 1985, the Council of the District of Columbia approved land use maps, pursuant to the District of Columbia Comprehensive Plan Act of 1984 Land Use Element Amendment Act of 1984. Map One, the Generalized Land Use Map, designates the Burns Building frontage on Pennsylvania Avenue as high-density commercial. The remainder of the site is designated for institutional uses. The addition is consistent with and implements these designations.

12. The President Condominium is located adjacent to the site, at 2141 I Street. It contains 125 units, of which 17 are one-bedroom units and 108 are efficiencies. The building was constructed in 1940 as an eight-story apartment building and remained as such until 1981, when it was converted into condominiums.

13. Twenty-second Street is a local street, one-way northbound, with a paved width of 32 feet. Two-hour metered parking is allowed on the east side of the street between 7:00 A.M. and 6:30 P.M. On the west side, two-hour metered parking is allowed between 9:30 A.M. and 4:00 P.M.

14. I Street is a local street with a paved width of 32 feet. Two-hour residential permit parking is in effect on both sides of the street between 7:00 A.M. and 6:30 P.M.

15. Pennsylvania Avenue is a principal arterial with a paved width of 80 feet. Parking is not permitted during the peak period in the peak direction curb lane.

16. The site is within the service area of the Foggy Bottom Metrorail station, which is less than 500 feet from the project. In Addition, the site is served by the Pennsylvania Avenue Metrobus line, which links the site to downtown and the Friendship Heights area.

17. GWU seeks Board approval for construction of an addition to the H.B. Burns Memorial Building. The Burns Building houses much of the office practice of the faculty associated with the University Medical School. The Addition is intended to relieve overcrowding within the Burns Building, and to permit off-campus medical facilities housed within leased space to return to campus, to consolidate other on and off campus facilities, and to provide a modern ambulatory care center. Included in this latter category is the Department of Health Care Sciences ("HMO") currently located at 1229 25th Street, N.W. In Orders numbered 11952 and 13350, the Board granted permission to the University to locate at the 25th Street address premised on eventual relocation of the activities to the main university campus. The Department of Health Care Sciences serves approximately 20,000 enrollees in an HMO, as well as other clients needing medical care.

18. In addition to examination, treatment, and support space for the Department of Health Care Sciences, the proposed Addition will contain medical faculty office space, administrative office and support space, multiple exam and procedure rooms, and will consolidate ambulatory care services offered at GWU Medical Center into a modern, functionally efficient complex capable of providing convenient, consumer-oriented medical service.

19. To achieve this objective, GWU submitted to the Board two alternative designs for the Addition. Scheme 1, which located the building on the east property lined, is no longer before the Board. It would have contained 120,950.99 square feet in a structure 90 feet in height as measured from Pennsylvania Avenue, and 118.5 feet in height, inclusive of penthouse as measured from I Street. The height differential results from a grade change. The structure would have had 12 levels, eight above grade and four below. Of the 12 levels, nine would have been used for medical-related activities and three for underground parking. A total of 140 full sized, 9 feet by 19 feet parking spaces would have been provided, accessible by way of a ramp from I Street, N.W. Vehicular access to the Addition would also have been available from a circular driveway with curb cuts on I Street and 22nd Street, N.W. This driveway would have permitted a drop off/pick-up point for nonambulatory patients at the front entrance of the structure. Access to the structure would have also been available by way of elevators from the parking garage and connections with the Burns Building.

20. GWU developed Scheme 2 after a series of meetings with Councilmember John Wilson, the Office of Planning and the President Condominium. In an effort to ameliorate the Condominium's concerns, GWU was encouraged to develop a design that would provide additional light and air. GWU did

not originally apply for the configuration of Scheme 2, because it required the approval of two variances. Scheme 2 contains 121,923.4 square feet and is also 90 feet in height from the point of measurement. The number of levels contained in the Scheme 2 structure is the same as those in Scheme 1, and the distribution of functions by level is also identical. Finally, the two plans also correspond in terms of the number of parking spaces, vehicular access points, and pedestrian entrances. Only Scheme 2 is before the Board.

21. The major difference between the two schemes is the distance between the east wall of the proposed Addition and the west wall of the adjacent President Condominium. In Scheme 1, a portion of the east wall of the proposed Addition would have extended along the western wall of the President Condominium. In Scheme 2, the proposed Addition has been pulled back approximately 21 feet from the property line adjacent to the west wall of the President Condominium. The area between the walls of the two buildings expands to approximately 36 feet to the north. The effect is the creation of additional open space between the proposed addition and the President. To offset the loss of gross floor area resulting from the setback, the Applicant has extended the structure closer to I Street. In Scheme 1, the proposed Addition would be set back approximately 32 feet from I Street; in Scheme 2, this setback has been reduced to 15.5 feet.

22. 11 DCMR 210.1 provides that a college or university that is an academic institution of higher learning, including college or university that is an academic institution of higher learning, including college or university hospital, dormitory, fraternity or sorority house proposed to be located on the campus of a college or university, shall be permitted as a special exception in a residential district (R-1) provided that:

- A. Use as a college or university shall be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions. (Section 210.2)
- B. [In an R-5-C District], bulk increases may also be permitted; Provided that the total bulk of all buildings and structures on the campus shall not exceed the gross floor area prescribed for the R-5-C District. Because of permissive increases as applicable to normal bulk requirements in the low density districts regulated by this Title, it is the intent of this subsection to prevent unreasonable campus expansion into improved low-density districts. (Section 210.3)

- C. The applicant shall submit to the Board a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements, including, but not limited to the following:
- (a) Buildings and parking and loading facilities;
 - (b) Screening, signs, streets, and public utility facilities;
 - (c) Athletic and other recreational facilities; and
 - (d) A description of all activities conducted or to be conducted on the campus, and of the capacity of all present and proposed campus development. (Section 210.4)

23. Under Section 3108.1, the Board is authorized to grant special exceptions, where, in the judgement of the Board, those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Maps.

24. The Board approved the George Washington University Campus Plan ("Plan"), BZA Order No. 10403, December 22, 1970. The Plan provides flexibility through emphasis on general policies for the location and character of proposed buildings. The Plan consists of the following documents contained in the file of BZA Application 10403:

- A. Text material and supplement designated as Exhibits 10 and 11;
- B. Functional Areas, Illustrative Site and Staging Plans, respectively designated as Exhibits 2b, 2c, and 2d; and
- C. Four additional maps submitted May 26, 1970, after National Capital Planning Commission review entitled Identification of Existing Buildings, Vehicular Circulation Plan, Landscape Treatment Plan and Land Use Plan.

The Applicant has adopted as its official plan, a plan report entitled "A Revised Campus Plan for George Washington University" dated August, 1970. This plan report is a slightly revised version of the approved Campus Plan but is identical for purposes of considering the subject site. The

1985 campus plan is substantially more detailed, but does not amend the 1970 Plan in any way which adversely affects the consistency of the proposed Addition with the Plan.

25. The proposed Addition is located within an area of the approved 1970 Campus Plan designated "Medical School-Hospital." This use has been expressed in the Plan since at least 1970. GWU owned slightly over half of the site when the 1970 Plan was approved. Thereafter, it acquired the remainder. Further, the Illustrative Site Plan shows this site for an extended medical care center. Ambulatory care services are similar to the intent of the Illustrative Site Plan. Emphasis on short hospital stays has replaced the extended medical care centers. Thus, the spirit of flexibility provided in the Plan fits well with the proposed use. The Board notes that, as stated in the approved 1970 Plan:

The Campus Plan must, like a city plan, be expressed in terms of policies. A plan only in terms of specific building projects would be of limited value; precise needs for the projects to be built in the more distant future cannot be specified, but these projects must be anticipated in general terms if the long-range campus pattern is to be a rational and workable one. Therefore, the campus plan itself is in terms of locational and design policies.

The Board finds that the proposed Addition is consistent with what is shown on the approved 1970 campus master plan. The 1985 Campus Plan contains no amendments which would materially affect this finding.

26. BZA Order No. 13350, issued December 22, 1980, approved the continued use of 1229 25th Street, N.W. as the location of the applicant's Department of Health Care Sciences. The Board granted the continuation for a period of five years but dictated that the applicant find permanent space on the campus for the use within the five-year time period. The present application is consistent with the mandate.

27. The hours of operation of the facility will be from 7:00 A.M. to 8:00 P.M. Monday through Friday, and some hours on Saturday.

28. Approximately 75 percent of the proposed facility will be used by functions to be relocated from several different locations and presently utilizing 107,000 net usable square feet. Net usable square feet includes only the interior dimensions of functional rooms and does not include walls, corridors, mechanical, or public areas. The Addition will allow for vitally needed expansion. There

will also be a modest increase in the number of patient visits.

29. GWU presented Dr. L. Thompson Bowles, Acting Vice President for Medical Affairs, Dean for Academic Affairs and Professor of Surgery at the George Washington University Medical Center; Mr. Charles E. Diehl, Vice President and Treasurer of GWU; E.M. Knowles, Jr., National Director of Facilities Planning for Hamilton/KSA, health care planning consultant; Avery Faulkner, F.A.I.A., senior partner with the Cannon Faulkner Partnership and specialist in the design of health care buildings; John F. Callow, President of Callow Associates, a traffic, transportation, and environmental consultant; and William S. Harps, MAI, and expert real estate appraiser, who testified as to the need for the Addition as designed, its impact on the neighboring property, and the appropriateness of granting the relief sought.

30. The School of Medicine and Health Science is responsible for the education of over 600 medical students, 300 allied health students, and nearly 400 medical residents. The medical center conducts a large research program involving a significant number of projects funded by the National Institutes of Health, the National Science Foundation, and the National Academy of Sciences. These academic activities are major and integrated missions of the medical school, the hospital, the Burns Building, and the medical faculty practice.

31. The Pre-existing Burns Building is overcrowded and permits neither efficient ambulatory health care facilities nor an appropriate level of academic functions. The lack of on-campus space forced GWU to locate the Department of Health Care Sciences in leased off-campus space. The proposed Addition will allow the return of this department to campus, so as to integrate health services, even though some of the faculty requested programs will not be accommodated in the Addition, due to space limitations. The provision of efficient, integrated medical services requires close proximity to the hospital. There are no other locations that would permit GWU to construct the required ambulatory health care facility without being prohibitively expensive.

32. The Addition is essential to the academic mission of GWU, in order to keep pace in the field of medical education. As the emphasis in health care shifts from the in-patient to the out-patient setting, GWU must shift the focus of its medical student and resident education. This shift is required not only to comply with insurance provider requirements, but also to comply with educational accreditation agencies. The new facility will enable students to learn by increased provision of more complex care in the

ambulatory setting. Diagnostic facilities, examination rooms, procedure rooms, and educational support areas have been included in the Addition and are an integral part of the training experience needed by the students. A modern facility at a central location will provide student physicians with the necessary educational setting.

33. Consolidation of the ambulatory care services offers the community an efficient and convenient, one-stop, comprehensive, out-patient facility. It will increase the efficiency of the delivery of health care and minimize the duplication of costly functions. Students will learn about out-patient services in a modern facility. Health care services at a single location will allow GWU to distribute patient flow, and thereby diminish the impact of traffic which is generated during peak hours.

34. The existing health program is inefficient because of its decentralization. Patients, many of whom are elderly, must make trips between the hospital and the Burns Building to the Department of Health Care Sciences located on 25th Street. The proposed Addition will allow patients to receive all required care at a single site, as well as aid in the delivery of emergency services due to the proximity of the large number of doctors.

35. GWU was required to use this particular site for an addition to the Burns Building for a variety of reasons. First, this site allows GWU to continue to use the valuable asset of the pre-existing Burns Building, which is already devoted to ambulatory care. Second, a successful ambulatory care center requires proximity to the hospital, due to the extensive interaction between the medical staff and the hospital. Third, any new addition must comply with the George Washington University Campus Plan. Fourth, the expansion of the Burns Building on the subject site is the only economically feasible location for the required consolidated ambulatory care facility. Granted, Square 40 is also in reasonable proximity to the Hospital and is identified for that reason as the site for further medical facilities. However, it would be unreasonable to require GWU to convert a valuable resource, that is, the existing Burns Building, to other medical, or to other than medical, use at this time, in order to locate a comparable ambulatory care facility on Square 40.

36. GWU was required to expand the Burns Memorial Building. Ambulatory care is presently being provided at a variety of facilities and locations both on and off campus. All existing facilities are crowded and require additional space. The existing ambulatory care is fragmented and inefficient, and counter to the recognized need for academic medical centers to consolidate and expand outpatient activities. The primary reason for this shift is the need

to locate patient care in the least costly setting. Improved technology now allows for diagnosis, treatment, and intervention in an ambulatory setting without days and weeks of preparation and recovery in a hospital. Consolidation also allows patients and their physicians to have easy access to sophisticated equipment and a variety of health care professionals. The multi-discipline approach is required, particularly at an academic medical center which often treats the most complex cases. The Board further finds that with the shift to an ambulatory care setting, the clinical teaching of medical students must also shift to that setting, resulting in a need for increased space for the accomplishment of that academic mission.

37. The Addition and the pre-existing Burns Building contain the minimum square footage which could reasonably provide for a modern ambulatory care center. In its initial analysis, before filing an application for a building permit, GWU had determined that the care center would require 181,000 square feet of net usable space to accommodate the desired program elements. In view of the inability of the building envelope to accommodate all program elements, reductions in space were required. After eliminating space not absolutely required, and maximizing net areas by redesign and minimizing circulation space, the program space was reduced to 152,000 net usable square feet. The Addition is designed at the minimum size which will accommodate an effective and functional ambulatory care center.

38. The Addition has been sized at a functional minimum, and it was essential to have the various functions at a single location. The uses must be coordinated with the functions in both the Burns Building and the hospital. The Addition must be cross-spliced with existing functions in the Burns Building. Finally, there are certain sequential functions within the Addition that must be configured in a certain manner for the clinical operation to work for the physicians.

39. As a major provider of medical care, GWU is a public service organization that needs to consolidate and expand its ambulatory health care facilities, and the subject site is the only feasible location for such expansion. The Addition, as designed, is an institutional necessity for GWU.

40. The lot occupancy of the subject site with the Addition is 92 percent in the C-3-C portion, and approximately 75 percent in the R-5-C portion. The height of the Addition is 90 feet as measured from Pennsylvania Avenue and therefore is approximately 35 feet lower than the existing Burns Building.

41. Landscaping will be provided in a coordinated fashion with GWU's overall campus landscape plan and the District's requirements for types, sizes, and location of plant material.

42. To the extent that the mechanical penthouse of the proposed Addition is Scheme 2 exceeds the 0.37 FAR allowance, the excess has been appropriately charged to the FAR of the Addition. The penthouse complies with the 18.5 foot height limit. The penthouse will house critical major mechanical equipment for the addition, as well as the emergency power and the central cooling tower and associated equipment for the complex. It has been designed so that the equipment is within the smallest envelope which the building codes allow. Some equipment which is normally placed in a penthouse was moved to mechanical rooms on each floor below the penthouse due to space restrictions. This resulted in a loss of clinical space. No further transfers could reasonably be made. Due to the required equipment and the elevation differential between the Burns Building and the Addition, two separate penthouses are required. Due to the required equipment, the walls of the Addition penthouse cannot match the lower height of the Burns Building penthouse. The same constraints require a special exception from the setback requirements for roof structures.

43. The Board will address the objections to the penthouse based on light and air considerations in its subsequent findings dealing with light and air. The site is long and narrow, and the placement of all required equipment for this highly-specialized building can only be accomplished by encroaching upon the setback line of the roof structure.

44. The effect of light on buildings is of two types: direct sunlight and reflected light. Reflected light is light which is deflected from one object to another. The source of reflected light may be direct sunlight and may be reflected from a light-colored object or from the sky. In the District, the north elevations of buildings receive virtually no direct sunlight, but have reflected light from nearby buildings or the sky. Many people prefer north orientations because they are protected from direct sunlight.

45. Based upon the record, the Board is persuaded that the overall effect of the Addition on the light of the President Condominium causes no material adverse impact. Even with the completed Addition in place, the western rooms in the President do not fail to benefit from a reasonable level of direct and reflected light. The Board so finds as an absolute fact. It therefore does not reach the question whether there is no greater adverse impact than could reasonably result from a matter-of-right structure.

46. The Addition has no adverse effect on the reflected light of the President Condominium. Where the west wall of the Condominium steps back as it moves north, much of the west wall is in shadow cast by the President itself. The west wall of the President Condominium receives reflected light from the Addition in the morning and at noon, and direct and reflected light in the afternoon.

47. The Addition will have no cognizable adverse impact on air circulation for the President Condominium. Air circulation in urban areas is provided by having open space between buildings. The continuous passageway between the Addition's east walls and the Condominium's west walls, which runs the full length of both buildings, provides maximum air flow between the structures, and provides an adequate source of air for natural ventilation.

48. The practical effect of the Addition on the Condominium with respect to light and air may also be appropriately considered by examining the provisions of the Zoning Regulations which are designed to provide adequate light and air for habitable rooms. Under the Building Code, habitable rooms are required to front on a street, alley, or a yard or court meeting the requirements of the Zoning Regulations. The Zoning Regulations require that in open courts the opposing walls must be separated by a distance equal to three inches for each foot of the highest wall. The distance between the east wall of the Addition and the west wall of the Condominium which contains habitable rooms is approximately 36 feet. The Zoning Regulations would require, if the Condominium and the Addition were parts of a single building, the courtyard width opposite habitable rooms to be 29 feet, 7½ inches. In fact, the width of the open space between the Addition and the habitable rooms of the Condominium is well in excess of the width of court which would be required, to wit, 36 feet. The Addition, as designed, will exceed the standards in the Zoning Regulations for the provision of light and air by open courts. The Board is mindful that the Zoning Regulations set higher standards for buildings which are on separate lots, but it would be unreasonable to evaluate the Addition's impact without considering standards which the Zoning Commission has found to be reasonable in other circumstances which are significantly similar to those which are before the Board.

49. The Addition, including the roof structure, does not adversely affect the light and air of the Condominium.

50. As found above, strict application of the Zoning Regulations would require a court of 29 feet, 7½ inches. The Addition as designed provides a court of 21 feet. The wall was moved to the maximum extent possible without serious and significant loss of functional space required

for the ambulatory care center. The further narrowing of the Addition would have resulted in a building not acceptable for ambulatory health care services. Further narrowing of the building would have resulted in the loss of a substantial number of exam and treatment rooms on each level of the Addition, which rooms could not have been relocated to the front portion of the building. Additionally, had this portion of the lot been a width of 100 feet, a 29-foot court could have been provided.

51. The ramp leading to the garage is roofed, and will contain the noise from vehicles entering and leaving the parking garage. The design of the ramp entrance allows ease of access to enter the garage with noise levels approximately those of the surrounding street. Automobiles leaving the garage ascending the slope arrive at the street at a flat plateau with noise levels comparable to surrounding streets. Additionally, the garage will be ventilated in conformance with the requirements of the D.C. Building Code. The garage ramp roof and the garage opening will contain fumes and draw them gradually down the garage to the vertical exhaust shafts of the building. The garage entrance will not create an objectionable impact on the President Condominium due to noise or fumes.

52. The ramp roof will be landscaped.

53. The use and occupancy of the proposed Addition will not generate objectionable noise. The use is not noise intensive. The building design will utilize materials which will insulate internal operations from the surrounding properties. The three levels of the garage will be completely enclosed to attenuate the sound from vehicles within the garage. Noise emanating from the garage will be less than the ambient noise on I Street. Overall, the Board finds that noise from the Addition will be less than presently generated by the vehicles which use the surface parking lot. Further, noise generating equipment on the roof will be located above the roof line of the Condominium. The emergency generator will be located on the west side of the addition away from the Condominium. Cooling towers will be shielded and will direct noise to the sky. Noise levels will be similar to those created by the through-the-wall air conditioning units in the Condominium.

54. The proposed Addition will have a three-level parking garage with a capacity for approximately 140 full-size automobiles. The approved 1970 Campus Master Plan requires GWU to provide 2700 to 3000 parking spaces. The 1985 Campus Plan does not amend this provision. The total number of spaces provided if the proposed Addition is constructed would be 2863. The number of parking spaces is within the range of spaces required pursuant to the Campus Plan.

55. Ambulatory care faculty and staff presently on campus use 141 of GWU's existing parking spaces. GWU's traffic consultant reasonably estimates that the requirement for parking will increase to 188 by 1990. This increase includes faculty and staff being relocated from the 28th Street Department of Health Care Sciences facility.

56. The pre-existing Burns Building presently has an average of 663 daily patient visits. Upon completion of the Addition, the number of visits will increase to 1,076 by 1990, due chiefly to the transfer from the 25th Street HMO facility, and also allowing for a modest amount of growth.

57. Ample parking spaces exist elsewhere on the campus to meet present and future demand. Faculty, staff, and patients will therefore have the use of other GWU parking facilities. The Board finds that GWU will provide adequate off-street parking.

58. The Burns Building presently has assigned to it 394.2 full-time equivalent (FTE) faculty and staff. Other on-campus facilities at the Hospital and Ross Hall which furnish ambulatory care services have 56 FTE's. The Burns Building, the Hospital, and Ross Hall are located in the immediate proximity of each other, and for traffic purposes constitute a single traffic generator. An FTE is equivalent to a staff member who works full-time. Two half-time staff equal 1.0 FTE. Full-time staff split in two assignments would have two .5 FTE positions.

59. After a department-by-department analysis in considering each staff category, the health planning consultant calculated the average daily population. The methodology used involved a 3-step process. First, full and part-time staff were assigned a full population value; for example, if a person was a .5 FTE at the Burns Building that person was assigned a 1.0 for population count purposes. Second, after calculating the total population, an adjustment was made downward for average conditions relating to vacations, holidays, and sick leave. Third, additions were made to account for personnel who performed functions at the on-campus ambulatory facilities who had not been included in the FTE count. The health planning consultant determined that the average daily population for the Burns Building, the Hospital, and the Ross Building, considered collectively as one facility for traffic generation purposes, was 476. The health planning consultant also determined the average population that would be in the new Burns complex, using the same methodology and with allowances for a modest increase in staff. He determined that there would be 694 FTE's at the Burns complex after consolidation, and further determined that the average daily population at such time would be 647. The daily visitor and patient population at the Burns Building and other on-campus sites (Hospital and

Ross Hall) is 663. After consolidation in the Burns medical complex, the visitor and patient population is projected to be 1,076, which includes a modest growth in such population. These calculations were prepared for and used by the traffic consultant for his purposes. The Board finds that these calculations are a reasonable basis for examining the traffic impact of the addition.

60. Existing levels of service of traffic will not change as a result of the Addition. The adjacent intersections at 21st and I Streets, and 22nd and I Streets operate at level of service A, and the intersection at 22nd Street and Pennsylvania Avenue operates at level C. These constitute favorable levels of service. Upon the opening of the new ambulatory facility, approximately 20 percent of the patients will arrive prior to 10:00 A.M., as compared to the present figure of 46 percent, by distributing patient visits throughout the day.

61. The distribution of traffic will be favorable. Traffic that is not destined for the ambulatory care locations will go to a single location that is very convenient to the Metro subway station. Centralizing the staff will also increase carpooling opportunities, and eliminate duplication of trips to separate facilities. The proposed Addition will not create objectionable traffic conditions.

62. The traffic generated by the Burns Building and the other on-campus ambulatory facilities totals 90 vehicles in the A.M. peak hour. The A.M. peak hour (8:30- 9:30) represents the highest volume of traffic on adjacent streets. After consolidation there will be an increase of 84 vehicles in the A.M. peak hour, which, as previously found, does not change the operational levels of service on I Street, 22nd Street and Pennsylvania Avenue.

63. No safety problems will be caused by vehicles entering the Addition's parking garage. Approximately 84 vehicles will enter the garage during the A.M. peak hour. The pedestrian traffic in the morning hours is projected at roughly 412 persons between 8:30 and 9:30 A.M. This pedestrian movement represents seven persons per minute. The estimated 84 vehicles generated in the A.M. peak hour by the garage represents 1.4 vehicles per minute. The interaction of these numbers of vehicles and pedestrians poses no safety problems. Even if 140 vehicles, the garage's capacity, entered during this period, the result would be 2.33 vehicles per minute, which the Board finds would not create a safety problem. At a typical downtown garage, 5 vehicles per minute enter the garage.

64. The Board finds that vehicles turning left into the garage off I Street, approximately 59, will produce no congestion or significant traffic conflict, due to the low

number of vehicles traveling west on I Street and passing the new garage entrance. In addition, the garage ramp is sufficiently long to accommodate 7 cars, which is adequate to prevent queuing or congestion on I Street.

65. The proposed Addition will not increase the number of students.

66. The proposed Addition, when added to existing buildings on campus, will not exceed the FAR prescribed for buildings within the campus. Pursuant to 11 DCMR 210.3, a particular building may exceed the maximum bulk requirements normally allowed in the district in which it is situated, provided that the total bulk of all buildings on campus do not exceed the gross floor area prescribed for that particular district. The Addition, and the President Condominium are located in an R-5-C district, which permits an FAR of 3.5. GWU's FAR is 2.16. The proposed addition of 121,951 number of square feet for Scheme 2 will increase the total of FAR to approximately 2.24, well below the maximum aggregate permitted FAR of 3.5. Exceeding the 3.5 FAR at this site is consistent with the intent of the Regulations to avoid expansion into low density residential districts.

67. On the basis of the Department of Public Works ("DPW"), memoranda dated February 20 and June 19, 1985, and testimony at the public hearing, the Board finds that, from a transportation point of view, the proposed Addition would have a negligible impact on the adjacent street system. The Addition would generate between 100 and 120 vehicle trips during its peak activity period, but this peak period would not coincide with the peak hours on the surrounding streets. The level of parking to be provided would be more than adequate to accommodate future activity at the complex. The proposed number of parking spaces on campus would be 2,863. This figure conforms with the approved Campus Plan requirement of between 2,700 and 3,000 spaces.

68. The intersection of I and 22nd Streets operates at level of Service A. Vehicular and pedestrian trips generated by this project during its peak activity would not affect the existing level of service.

69. The Office of Planning filed three memoranda on the application in the prior proceedings and participated through a representative at the public hearings. The first memorandum, dated February 20, 1985, recommended approval of the application based upon OP's review of Scheme 1 only. OP found the Addition to be consistent with the approved Campus Plan and within the permitted bulk for the University. OP found that noise from the project would be minimal, but requested the applicant to address further the noise emanating from the roof structure. The project architect addressed this issue to OP's satisfaction by submitting a

memorandum into the record. OP concurred with the analysis prepared by the applicant's transportation consultant. OP found that the Addition would not result in an increase in the student body. With respect to the two roof structure special expectations, OP found that strict compliance with Sub-section 3308.2 (11 DCMR 411.11) appears to be unduly restrictive, prohibitively costly or unreasonable. Overall, OP was of the opinion at the time of the report that the proposed addition to the Burns Building would be in harmony with the general purpose and intent of the Zoning Regulations and would not tend to affect adversely the use of neighboring property.

70. Office of Planning's second memorandum, dated May 1, 1985, superseded the first memorandum. OP met with members of the opposition concerning the light and air issue. OP then suggested to the applicant that it re-examine the design of the addition in order to address the opposition's concerns. The applicant complied with this request by preparing a sketch plan that later became Scheme 2. Although the revised plan required variances, OP found it to be superior to Scheme 1. At that time, however, Scheme 2 was not before the Board, and OP could not officially comment on the plan. Subsequent to the filing of the second memorandum, the applicant filed Scheme 2 with the Board as an alternative to Scheme 1.

71. Office of Planning's final memorandum, dated June 19, 1985, considered both Scheme 1 and Scheme 2. OP's recommended was that the applicant and the opposition continue to work toward an alternative solution that responded to both party's needs and concerns. Nevertheless, OP addressed the criteria for the requested relief. OP found both schemes to be consistent with the approved 1970 Campus Plan. The proposed addition is located within the area of the campus designated "Medical School/Hospital" in the approved plan. The proposed use as an ambulatory care center is not the precise use indicated in the plan, but OP noted that a campus plan serves as a guide and that the proposed use bears a relationship to the medical complex and is appropriate.

72. The Office of Planning, by Memorandum dated December 15, 1987, recommended that the application be granted. Specifically, as the basis for its recommendation, OP reported to the Board that:

[T]he George Washington University is located in a fully developed urban area and in our opinion, the proposed building addition is consistent with the approved campus plan. The setback from the President Condominium and the resulting court it creates, ameliorates the impact of the proposed building addition upon the light and air of units on the west side of the

President Condominium. The proposed building addition is intended to relieve overcrowding within the Burns Building and to improve administration and delivery of medical services. Any changes in the building configuration would impede materially the delivery of services. The site in question is long and narrow which in addition to the configuration of the existing building creates practical difficulty and hardship, and basis for special exceptions and variances that are needed. We note that the proposed use of the building addition is not noise intensive so that it is not likely to create objectionable and adverse impacts on the surrounding neighborhood.

73. On January 28, 1988, OP supplemented its December 15, 1987 Report, repeating the recommendation that the application be granted. Specifically, OP reported that:

1. Comprehensive Plan. The property in question is located in an area indicated for institutional use on the Land Use Map of the Land Use Element of the Comprehensive Plan. It is included in The George Washington University Campus Plan. It should be noted that the site is located within the Central Employment Area as defined by the Zoning Regulations. The proposed addition to the existing Burns Building (hereafter, Burns Addition) located at 22nd and I Streets, N.W. is designed to improve the efficiency and the effectiveness of the health care delivery system in the area.

We note that The George Washington University and Medical Center is a valuable resource for the city in the Central Employment Area. It has provided some extraordinary health services to the general public. We think that it is important for the city that this resource be maintained in this area and that it be operated with maximum efficiency.

2. Special Exception to 3.5 FAR. The D.C. Court of Appeals ruled that in addition to the special exception for a university use, The George Washington University must obtain a special exception in order to exceed the 3.5 FAR in a R-5-C District. The intent in this respect is to prevent unreasonable expansion in the low density areas. In the present case, this issue is addressed by aggregating the Campus FAR for various buildings, thereby providing open spaces with development, and limiting the uniform and horizontal spread of the campus uses.

3. Light and Air. The Zoning Regulations provide that an open court must have a width of 3 inches per foot of height in the R-5-C District (11 DCMR 406.1). The height of the easterly wall of the Burns Addition would require a court of 29 feet in width. The habitable rooms of the President Condominium face a 15-foot wide court within the property of the Condominium. The wall of the Burns Addition is set 21 feet from the property line separating the Burns Addition and the Condominium. Thus, the distance between these walls is 36 feet. Consequently, in our view, the purpose and intent of the light and air requirements of the Zoning Regulations are satisfied.
4. Public Service Institution. The George Washington University is a public service institution providing educational and medical services in the District of Columbia. The importance of the ambulatory care service to be provided by the Burns Addition project is underscored by the authorization for the issuance and sale of the District of Columbia revenue bonds in connection with the construction of the facility. In the authorizing legislation, the City Council found that the facility would contribute to community betterment and be in the public interest.

In the opinion of the Office of Planning, the Burns Addition is appropriately located. The variances and special exceptions as requested are not excessive. The Office of Planning recommends that this application be approved.

The Board concurs with the substantive findings made by OP.

74. The Board finds that the combination of factors described by GWU's witnesses and OP, and as found by the Board in this order, creates practical difficulty and hardship.

75. The Office of Planning noted that DPW found the level of parking under Scheme 2 to be more than adequate to accommodate future activities at the complex. Also, the parking requirement must be viewed in terms of the overall level of GWU parking mandated by the approved Campus Master Plan. The approved plan requires 2,700-3,000 parking spaces. GWU currently provides 2,746 spaces. The total number of spaces provided on campus if the Addition is constructed will be 2,833.

76. The best method of gaining access to the proposed Addition is the straight line ramp as proposed. An L-shape ramp, scissor ramp, helical ramp are all unacceptable. Any access from 22nd Street would have to move across the Addition and, because of the depth of penetration, return on an L-shaped leg to reach the ultimate elevation. This would create a physical barrier within two levels of the Addition that would impair the functioning of two essential treatment floors. The straight-line ramp does not bisect any floor area. A helical ramp could not fit on the site, and would require ingress and egress cuts on 22nd Street. It would also require the use of public space which is already heavily loaded with sewer, water, electrical utilities, and vaults. Relocation of the utilities would be very expensive.

77. Based on testimony and memoranda from the Office of Planning and the Department of Public Works, and reports and testimony of Faulkner, the project architect, the Board finds that I Street is the most acceptable location for the garage entrance, and that a 22nd Street garage entrance is not feasible.

78. GWU studied traffic on 22nd Street, and requested changes to the traffic light cycles. These changes resulted in less congestion on the street and an overall improvement in both vehicular and pedestrian traffic flow.

79. Based on the testimony of the Applicant's traffic consultant (Callow), the Board finds that from a transportation planning perspective, it would be safer to restrict traffic flow into the drive-through on the site in a one-way direction. A two-way flow would not be in the interest of the public health, safety, and general welfare.

80. Adequate loading facilities will serve the Addition. Loading dock facilities will be located on the eastern side of the Addition, and will operate off of an existing public alley. One 20-foot deep bay and one 30-foot deep bay will be provided. The loading docks will be shielded visibly and audibly from adjacent residential properties. There will be approximately 20 van deliveries per day utilizing the public alley system. Large bulk deliveries will continue to be made at the School of Medicine, which is located two blocks west of the subject site.

81. A trash compactor will be located adjacent to the loading dock. It will be a small, self-contained eight cubic yard compactor. This area will be shielded visually from the President Condominium. The compactor will replace the one that currently exists on the site. There will be no increase in noise over existing conditions.

82. Based on an October 9, 1985, memorandum by the Office of Planning, and through the testimony of its representative at the further hearing, the Board finds that the Applicant responded to the concerns raised by the Board and that the proposed modifications represent an improvement to Scheme 2. OP reconfirmed its earlier conclusion that I Street constitutes a proper location for the garage entrance. As to noise and fumes, the ramp roof, including the landscaping on the roof terrace that was originally proposed by OP, will have a favorable impact. The roof will have negligible impact on the light and air of the President Condominium. Finally, OP noted that DPW has previously found that the Addition will have a negligible impact on the adjacent street system. The Board concurs with the findings and reasoning of the Office of Planning, and will incorporate the design changes to Scheme 2 in its final decision.

83. The Addition will have no adverse effect on the fair market value of units in the President Condominium. Based upon the totality of the evidence about sales, including Mr. Draude's testimony in particular, the Board finds that the value of the units in the President which would hypothetically appear most likely to be affected by the Addition has not been adversely affected by the construction of the Addition pursuant to the vacated orders of the Board.

84. Advisory Neighborhood Commission 2A filed four resolutions with the Board in prior proceedings. ANC 2A opposed both Schemes 1 and 2 of the proposed Addition. The ANC believed the proposed addition in either form to be too large in terms of height and bulk for the site, and adversely impacts the light and air of residential units located on the west side of the President Condominium. The ANC also objected to the I Street location of the entrance to the underground garage. The ANC maintained that the location of the garage entrance immediately adjacent to the west wall of the President Condominium and its close proximity to other GWU garage entrances would generate an unsupportable level of congestion and noise.

85. By resolution and report dated December 8, 1987, and resolution and report dated January 12, 1988, Advisory Neighborhood Commission 2A advised the Board as to its concerns and its opposition to GWU's application for special exception and variance relief. ANC 2A opposes the application because in its opinion the Addition will eliminate light and air and the view of 48 units in the President Condominium, and will have a significant adverse traffic and noise impact; and that the application does not meet the standards for the special exception and variance relief sought. Furthermore, ANC 2A states that the Addition does not meet the standards in the Zoning Regulations to protect residential property from adverse effects of University

construction. Specifically, with regard to the special exception for University use in a residential district, the ANC states that this relief should be denied because of the objectionable conditions and adverse effects on residential property, i.e., light, air, and view of the 48 units; the location of the parking ramp and driveway would create objectionable traffic conditions due to noise and fumes, hazards to pedestrians, conflicting traffic movement; and that the parking ramp and driveway should be located on 22nd Street. Furthermore, the noise from the east wall of the Addition and the size and proximity of the roof structure will contribute to objectionable noise.

With regard to the special exception to exceed 3.5 FAR in the residential district, the ANC states that the excess FAR adversely affects the residential property and that the relief sought should only be used to avoid adverse impacts in residential districts. The ANC further states that the granting of this special exception would not be consistent with the Zoning Regulations governing University uses in residential districts. The increase in FAR would contribute to the excessive size of the building, which significantly adversely affects residential property. Additionally, the ANC states that the increase in FAR is not consistent with the approved campus plan.

With regard to the variance to permit extending an existing non-conformity (FAR) in a commercial district, the ANC states that there is no extraordinary or exceptional condition, no peculiar and exceptional practical difficulties, and that the addition does not represent an institutional necessity for GWU. Furthermore, the ANC argues that there is no justification for the public service area variance standards established by the Court of Appeals. Additionally, the ANC states that the Addition is a detriment to the public good and is inconsistent with the provision of the Zoning Regulations regarding non-conforming structures.

With regard to the special exception relief for the roof structure, the ANC states that the roof structure contributes to the significant adverse impact on the light and air of the President Condominium and that GWU does not qualify for the special exception relief sought.

The ANC also objects to pedestrian bridges which are not before the Board.

86. The Board is required by statute to give "great weight" to the issues and concerns of the ANC that are reduced to writing and upon which a written recommendation is made. The Board, as demonstrated by its findings of fact and conclusions of law, has addressed each of the issues and concerns of the ANC.

CONCLUSIONS OF LAW:

1. The application was heard by the Board pursuant to the provisions of the Zoning Regulations and the directions of the Court of Appeals, which remanded this matter to the Board for further proceedings. Draude v. District of Columbia Board of Zoning Adjustment, 527 A.2d 1242 (D.C. 1987).

2. GWU is seeking special exception and variance relief in order to construct a nine-story addition to the H.B. Burns Memorial Building in a R-5-C and C-3-C District at premises 2150 Pennsylvania Avenue, N.W. (Square 75, Lots 855, 857, 849, 819, 818, 856, and 814). The specific special exceptions and variances sought are:

- A. Relief sought: Special exceptions under Section 210 for further processing under the campus plan and under Sub-section 210.3 for permission to exceed the normal 3.5 FAR on the residentially zoned portion of the subject property by aggregating the FAR from the residentially zoned portion of the campus;
- B. Relief sought: Special exception under Sub-section 411.11 to permit a separate roof structure not meeting the setback requirements of Sub-sections 400.8 and 770.7 and which does not place all penthouses and mechanical equipment in one enclosure and does not have all enclosing walls of equal height;
- C. Relief sought: Variance from the open court width requirements (Sub-section 406.1);
- D. Relief sought: Variance from the prohibition against making an addition to an existing nonconforming structure that creates a new nonconformity (court width) (Sub-section 2001.3(c)); and

- E. Relief sought: Variance from the prohibition against making an addition to an existing nonconforming structure that extends an existing nonconformity (FAR) in a Commercial District (Sub-section 2001.3(c)).

3. Based on the findings of fact and the record herein the Board concludes that GWU has presented substantial evidence and met its burden, and is entitled to the special exception and variance relief sought.

A. GWU and the Addition.

4. George Washington University is an academic institution of higher learning that operates and maintains ambulatory health care services as an integral element of its academic and health care missions. The Board concludes that GWU is a public service organization.

5. The present ambulatory health care facilities are inadequate and need to be expanded. The Board concludes that the subject site is required for such expansion, that there is no alternative feasible site, and that the Addition is consistent with and implements the approved Campus Plan and the District of Columbia Comprehensive Plan. The Board further concludes that the expansion of the facilities into the Addition is a benefit to the public good, and in the public interest.

B. The Section 210 and Subsection 210.3 special exceptions.

6. The Addition as designed is consistent with the approved 1970 and 1985 Campus Plans, and will not tend to adversely affect neighboring residential property due to objectionable conditions affecting light and air, traffic noise, and fumes. The Addition as designed is consistent with the policy of avoiding unreasonable expansion into low-density residential areas by University uses, will be in harmony with the general purpose and intent of the Zoning Regulations and Maps, and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Maps.

7. The Board concludes that the Addition will not adversely affect the light and air of the President Condominium. The Board has included that there will be no cognizable adverse impact on light and air. Further, the Board recognizes that the location of the Addition and the President Condominium creates, as a practical matter, an open space that exceeds the standards of the Zoning Regulations for open courts. The Board concludes that, in the first instance, the appropriate standard for measuring

the impact of light and air by the Addition on the President is whether the granting of the special exception would have any significant objectionable effects. If, as the Board has found in this case, there is no such effect, the Board's task is over. Only if there had appeared to be such effects, would it then have become necessary to consider whether those effects would be no greater than those which an alternative as-of-right structure would reasonably be likely to create.

8. The Board concludes that the Addition will not have an adverse impact on the traffic, because the levels of service will not be adversely affected and will remain in the current favorable condition. As with the issue of light and air, the Board concludes that the appropriate standard for measuring traffic impact is to determine whether the absolute, that is, the total ultimate level of traffic created by the granting of a special exception, is not objectionable, and that the appropriate benchmark for this measurement is whether the traffic will affect existing levels of service on adjacent streets. Furthermore, the Board concludes that consolidation of the ambulatory care facilities will create a more favorable traffic distribution pattern than presently exists. The Board also concludes that no objectionable noise or fumes will be created by the addition.

9. The Board concludes that the parking garage ramp cannot feasibly be located on 22nd Street, and that its location on I Street will not tend to affect adversely neighboring property due to traffic, noise, or fumes. There will be no pedestrian conflict with vehicles entering the garage, nor will left-turning vehicles create an objectionable condition due to congestion or conflict with westbound traffic. There will be no objectionable condition due to noise or fumes from the garage or ramp. The Board notes that by placing the garage underground and roofing over the entrance ramp, there will be reduction in noise and fumes, as compared to the former open parking lot adjoining the President.

10. The Addition, including the roof structure, has been designed to minimize any noise impact on the President. The Addition is not a noise intensive use and does not create objectionable noise conditions.

11. The Addition is in a highly urban area zoned R-5-C (medium-high density) and designated for institutional use by the Comprehensive Plan. The Board concludes that it is appropriate to exceed the 3.5 FAR at this site. This is consistent with the policy of avoiding campus expansion into low-density districts.

C. The Subsection 411.11 special exception.

12. The Board concludes that full compliance with the roof structure provisions would be impracticable and such compliance would be unduly restrictive, prohibitively costly or unreasonable. The shape of the lot, configuration of the Addition, the existing Burns Building and the equipment required for a modern ambulatory care center have dictated the design of the roof structure. That structure has been designed to minimum dimensions and equipment normally placed in such structure has been transferred to the lower floors to the maximum extent feasible.

13. The Board's conclusion, supra, as to the Section 210 and Subsection 210.3 special exceptions concerning the effect of the Addition on neighboring residential property addressed the entire structure, including the roof structure, and therefore the Board concludes that the roof structure will not adversely affect the light and air of adjacent property, will not materially impair the intent and purpose of the Regulations and is not likely to become objectionable to neighboring property.

D. Subsections 406.1 and 2001.3(c) variances.

14. The Board concludes that these variances concerning the open court are area variances that are to be decided on the same facts and law.

15. As previously found and concluded, GWU is a public service organization that needs to expand its inadequate ambulatory health care facilities into an adjacent area in common ownership which has long been regarded as part of the same site. GWU has shown that the specific design of the addition is an institutional necessity that requires the specific variances, that is, an open court that does not comply with Subsection 406.1 and the prohibition in Section 2001.3(3) against creating a new nonconformity. Full compliance with Subsection 406.1 would significantly frustrate GWU's needs for expansion.

16. The Board further concludes that the granting of these variances will benefit the public interest and good and will not substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Board adopts its conclusions, supra, respecting the special exceptions, and concludes that the granting of these variances will not affect adversely the use of neighboring property.

17. Alternatively, the Board concludes that the irregular shape of the lot, the narrowness of its southern portion, and the pre-existing Burns Building constitute an extraordinary or exceptional situation or condition of the subject site, and that the strict application of Subsections 506.1 and 2001.3(c) would result in peculiar and exceptional

difficulties to or exceptional and undue hardship upon the owner.

E. Subsection 2002.3(c) variance (FAR).

18. The Board concludes that this is an area variance to be decided under the same law and, to a certain degree, the same facts as the other two variances.

19. The light and air effect on the President is not at issue here, nor is the specific design that requires a variance from the open court provisions. Nonetheless, the Board concludes that the granting of this variance will not affect adversely the light and air of the President. The Board incorporates its previous conclusions that the Addition will not affect adversely the use of neighboring property.

20. The Board concludes that it is an institutional necessity for GWU to expand its ambulatory health care facilities and that such expansion requires that the Addition be physically linked to and interconnected with the Burns Building. This, in turn, requires that a portion of the Addition be constructed on the C-3-C portion of the site, thereby requiring the granting of this variance. The granting of this variance will benefit the public good and interest and will not substantially impair the intent, purpose and integrity of the zone plan as embodies in the Zoning Regulations and Map.

21. Alternatively, the Board concludes that the location of the Burns Building on the same site creates an extraordinary or exceptional situation or condition of the subject site, and that the strict application of Subsection 2001.3(c) would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner.

Accordingly, it is hereby ORDERED that the application is GRANTED subject to the condition that the development shall be constructed in accordance with the modified plans of Scheme 2, marked as Exhibit No. 56B of the record.

VOTE: As to variance relief from 11 DCMR 2001.3(c),
5-0 (Lindsley Williams, Carrie L. Thornhill,
Charles R. Norris, Paula L. Jewell, and
William F. McIntosh to grant);

As to special exceptions under 11 DCMR 210 and 411,
and variance relief from 11 DCMR 406.1,
4-1 (Carrie L. Thornhill, Charles R. Norris,
Paula L. Jewell, and William F. McIntosh to
grant; Lindsley Williams, to deny).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: _____

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14261orderBJW26